at the particular time, even though she may have been previously married. *Pratt* v. *Mathew, supra; Clarke* v. *Colls, supra.* And a widower is an unmarried man. *Peters* v. *Balke,* 170 Ill. 304, 48 N. E. 1012.

In the only other case on record, the facts of which are exactly in accord with those of the principal case, the court construed the statute not to include a divorced woman, on the ground that it was not intended for the protection of married women who had known men and were thus in a way rendered immune to the seducer's wiles. *Jennings* v. *Commonwealth, supra.*

DEATH—ABSENCE FOR SEVEN YEARS—PRESUMPTION OF TIME OF DEATH.—A person whose life was insured left home and was unheard of for several years, and the premiums on the policy were allowed to go unpaid after the first year of his disappearance. Prior to the expiration of seven years his administrator brought an action to have the policy restored. *Held,* the policy was forfeited by a failure to pay the premiums, as the law presumes death at the expiration of seven years and such presumption is not retroactive. *Murphy* v. *Metropolitan Life Ins. Co.,* 155 N. Y. Supp. 1062. See NOTES, p. 451.

EVIDENCE—RAPE—PREVIOUS UNCHASTITY OF PROSECUTRIX TO SHOW PROBABILITY OF CONSENT.—In a prosecution for rape the defendant offered evidence of acts of intercourse between the prosecutrix and other men for the purpose of showing probability of consent. *Held,* the evidence is admissible. *Lee* v. *State* (Tenn.), 179 S. W. 145. See NOTES, p. 448.

EVIDENCE—TRAILING BY BLOODHOUND—ADMISSIBILITY IN CRIMINAL CASES.—In a prosecution for burglary the state introduced evidence to show that shortly after the crime was committed bloodhounds were placed on the tracks of the supposed burglar, and that the dogs as if following these tracks went to the house of the accused. The evidence was admitted and the court instructed the jury that it could be considered as corroborative circumstantial evidence, if it appeared that the dogs were of pure blood, certain and reliable in the trailing of human beings, and that they were placed upon tracks which circumstances indicated were those of the burglar. *Held,* the evidence was properly admitted. *Aiken* v. *State* (Ga.), 86 S. E. 1076.

Though the use of bloodhounds in trailing fugitives from justice seems to have been of ancient origin, the first practical use to which they were put in this country was to aid in the capture and arrest of fugitive slaves. In such cases, however, the object sought was the finding of a known individual and if they brought to bay the wrong person that fact could be ascertained with certainty. But the modern use of dogs to furnish evidence to convict some citizen of a crime is a radical departure from the old form, and the competency of such evidence in a criminal case, is a debatable question, depending on the character, training and experience of such animals, and the conditions and circumstances of each case. While the authorities vary somewhat as to the prerequisite preliminary proof, there is a tendency to admit such evidence after a proper foundation for its introduction has been laid.

There must be evidence to connect the accused with the making of

the tracks at the time the crime was committed. *State* v. *Moore*, 129 N. C. 494, 39 S. E. 626, 55 L. R. A. 96. It must also be shown by some witness thoroughly familiar with the dogs that they are of pure blood, and that they had had training and experience in the tracking of human beings. *State* v. *Norman*, 153 N. C. 591, 68 S. E. 917; *State* v. *Moore, supra; Pedigo* v. *Commonwealth*, 103 Ky. 41, 44 S. W. 143, 82 Am. St. Rep. 566, 42 L. R. A. 432. By the weight of authority where it is shown that the dogs are well trained and experienced in the trailing of human beings, that within a short time after the commission of the crime they were put upon the tracks of the person towards whom all the circumstances strongly pointed as the guilty party, and that the dogs as if following these tracks brought to bay the accused, such facts are competent for the jury to consider in connection with all the other evidence as a circumstance tending to connect the accused with the alleged crime. *Hodge* v. *State*, 98 Ala. 10, 13 South 385, 39 Am. St. Rep. 17; *State* v. *Adams*, 85 Kan. 435, 116 Pac. 608, 35 L. R. A. (N. S.) 870; *State* v. *Hunter*, 143 N. C. 607, 56 S. E. 547, 118 Am. St. Rep. 830; *Spears* v. *State*, 92 Miss. 613, 46 South 166, 16 L. R. A. (N. S.) 285. The admission of this evidence does not violate the constitutional right of confrontation with witnesses, since it is not the dog which testifies but rather the person who uses the dog, the latter being a mere instrumentality in his hands. *State* v. *Dickerson*, 77 Ohio St. 34, 82 N. E. 969, 63 L. R. A. 789, 112 Am. St. Rep. 479, 11 Am. Cas. 1181.

The court should move with great caution, however, in receiving such evidence because of its uncertainty and the danger of convicting an innocent person, and it has been held in at least one jurisdiction that this evidence, both on reason and principle, is too unsafe to be admitted under any circumstances. *Brott* v. *State*, 70 Neb. 395, 97 N. W. 593, 63 L. R. A. 789. But it is believed that the latter view is unsound and that such evidence should be admitted subject to the proper precautions as outlined above.

INTERSTATE COMMERCE—TELEGRAPHS—TELEGRAM CROSSING STATE LINE.—A telegram containing notice of the death of the plaintiff's father was sent from one point to another point in the same state, but during the course of its transmission was delayed in another state. Because of delay in its delivery the plaintiff was prevented from attending the funeral and suffered great mental anguish. *Held*, this was not interstate commerce. *Western Union Tel. Co.* v. *Sharp* (Ark.), 180 S. W. 504.

Although a state may not regulate interstate commerce by laying a tax thereon, yet it may tax receipts from shipments of goods from one point in the state to another in respect of the receipts for the proportion of the transportation within the state, even though the route passes out of the state for part of the trip. *Lehigh Valley Ry. Co.* v. *Pennsylvania*, 145 U. S. 192. But shipments passing over such a route are the subject of interstate commerce and for this reason the state may not fix a rate between the two points. *Hanley* v. *Kansas City Southern Ry. Co.*, 187 U. S. 617; *United States* v. *Erie R. Co.*, 166 Fed. 352; *St. Louis & S. F. R. Co.* v. *State*, 87 Ark. 562, 113 S. W. 203. On the other hand some